

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 2115 - HB 2193

March 24, 2009

SUMMARY OF BILL: Requires all aggravated burglaries a defendant commits within a 24-hour period to be counted as separate prior convictions for purposes of determining whether the defendant is a multiple, persistent, or career offender under the Criminal Sentencing Reform Act.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$191,600/Incarceration*

Assumptions:

- Under current law, with the exception of certain felonies, felonies committed within a 24-hour period constitute one conviction for the purpose of determining prior convictions. Aggravated burglary is a Class C felony with a sentence ranging from three to 15 years. Under the proposed bill, two to four prior convictions would increase the sentencing range of a standard offender from three to six years to six to 10 years at 35 percent. Five or more priors would classify the offender as persistent and increase the sentencing range to 10 to 15 years at 45 percent. A career offender would be sentenced to 15 years at 60 percent.
- According to the Department of Correction (DOC), there has been an average of 1,186 admissions for aggravated burglary in each of the past 10 years. DOC assumes one percent (11.86) of the total admissions for aggravated burglary would receive an elevated sentence as a result of this bill. The average length of sentence for an offender convicted of aggravated burglary is 4.38 years and the average post-conviction time served is 3.83 years.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in one additional offender. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 13 offenders divided into Range II (8), Range III (4), and Career (1) offenders.
- According to DOC, 21 percent of offenders will re-offend within one year of their release. A recidivism discount of 21 percent has been applied to this estimate to account for the impact of offenders who would re-offend

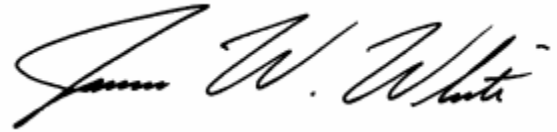
under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (8 offenders x 21% recidivism discount = 1.68 offenders). No additional incarceration costs for these six (8-2) offenders currently serving an average of 3.83 years which is more than an eight-year minimum sentence at 35 percent (2.8 years).

- Four offenders would serve an additional 1.8 years as a persistent offender (an increase from 3.83 years to 12.5 years at 45 percent). According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. The cost per offender at 3.83 years is \$83,654.82 (\$59.80 x 1,398.91 days). The cost per offender at 5.63 years is \$122,970.33 (\$59.80 x 2,056.36 days). The additional cost for increasing the average sentence length from 3.83 years to 5.63 years is \$39,315.51 (\$122,970.33 - \$83,654.82). A recidivism discount of 42 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill (4 x 42% = 1.68). The maximum cost is based on two offenders (4-2). The total additional operating cost for two offenders is \$78,631.02 (\$39,315.51 x 2).
- One offender would serve an additional 5.17 years as a career offender (an increase from 3.83 years to 15 years at 60 percent). The cost per offender at 3.83 years is \$83,654.82 (\$59.80 x 1,398.91 days). The cost per offender at 9.0 years is \$196,577.55 (\$59.80 x 3,287.25 days). The additional cost for increasing the average sentence length from 3.83 years to 9.0 years is \$112,922.73 (\$196,577.55 - \$83,654.82). Due to the small number of offenders, no recidivism discount has been applied for career offenders. The total additional cost for one offender is \$112,922.73.
- Additional assistant district attorney or assistant public defender positions cannot be created or funded absent statutory authorization. This bill does not authorize the creation of more positions.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

/lsc